

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RADIANCE, INC.,

Plaintiff,

v.

TWIN CITY FIRE INSURANCE COMPANY,

Defendant.

CIVIL ACTION NO. 10-10120-RGS

**TWIN CITY FIRE INSURANCE COMPANY'S
MOTION FOR SUMMARY JUDGMENT**

Defendant Twin City Fire Insurance Company ("Twin City"), by and through its undersigned counsel and pursuant to Fed. R. Civ. P. 56, files this Motion for Summary Judgment against Plaintiff Radianse, Inc. ("Radianse").

In this case, Radianse asserts claims against Twin City arising out of Twin City's denial of coverage with respect to a lawsuit filed against it captioned *AccountAbility Outsourcing, Inc. v. Marcou, et al.*, No. 08-1379 (Mass. Super. Ct., Suffolk County) (the "Underlying Action"). As set forth in the supporting Memorandum of Law filed herewith, Twin City in fact had no duty to defend or indemnify Radianse for the Underlying Action. The Policy excludes any claim "based upon, arising from, or in any way related to any liability under any contract or agreement." This exclusion unambiguously applies to the Underlying Action. The claims against Radianse were not only related to liability under a contract; they depended entirely on the existence of such liability. Thus, Twin City's denial of coverage was proper as a matter of law, and it has no duty to reimburse Radianse for either defense costs or the settlement. Furthermore, since Twin City's denial of coverage was reasonable and correct, there can be no liability for bad faith.

Accordingly, this Court should grant summary judgment to Twin City.

Dated: August 12, 2010

Respectfully submitted,

TWIN CITY FIRE INSURANCE COMPANY

By its attorneys,

/s/ Craig E. Stewart

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CERTIFICATE OF SERVICE

I, Craig E. Stewart, hereby certify that a true and accurate copy of the foregoing document has been filed and served through the Court's electronic filing system this 12th day of August, 2010.

/s/ Craig E. Stewart